



Matthew Zuker, Chairman  
Craig W. Hiltz, Vice Chairman  
Robert Fitzgerald, Clerk  
Mary Jane Coffey, Member  
Susanne Murphy, Member  
John Lee, Associate Member

**Town of Walpole**  
**Commonwealth of Massachusetts**  
**Zoning Board of Appeals**  
**DECISION - BOARD OF APPEALS CASE NO. 04-18**

**APPLICANT:**

Deborah & Leon Laframboise

**LOCATION OF PROPERTY INVOLVED:**

61 High Street  
Walpole Assessors Map 17, Parcel 221

**APPLICATION:**

A **Special Permit** under Section 5-B.2. of the Zoning Bylaw to allow an Accessory In-Law Suite in space previously approved as a Childcare Center, with no alterations needed, located at 61 High Street, Walpole, MA 02081, Zoning District B.

On March 7, 2018 a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to the granting of a **Special Permit** to Deborah and Leon Laframboise.

The following members were present and voting:

Matthew Zuker, Chairman  
Craig W. Hiltz, Vice Chairman  
Robert Fitzgerald, Clerk  
Mary Jane Coffey, Member  
John Lee, Associate Member

RECEIVED  
18 MAR 19 PM 3:49  
TOWN OF WALPOLE  
TOWN CLERK

\*\*\*\*\*

A motion was made by John Lee and seconded by Craig Hiltz to grant a Special Permit under Section 5-B.2. of the Zoning Bylaw to allow an Accessory In-Law Suite in space previously approved as a Childcare Center, with no alterations needed, located at 61 High Street, Walpole, MA 02081, Zoning District B.

The vote was **5-0-0 in favor**; (Zuker, Hiltz, Fitzgerald, Murphy, Coffey and Lee voting); therefore the application for a **Special Permit** is hereby **granted**, subject to the following conditions:

**CONDITIONS:**

1. The Accessory In-Law Suite shall not be held in separate ownership from the principal dwelling unit.

2. The Accessory In-Law Suite shall only be occupied by individuals within the third degree of kinship of the owner of the principal dwelling unit.
3. The property owner shall record this Decision with the Norfolk County Registry of Deeds and provide a copy along with proof of recording to the Board of Appeals, Town Clerk and Building Department.
4. When ownership of the property changes, the new owner shall notify the Building Commissioner so as to update the Accessory In-Law Suite List.
5. The square footage of the Accessory In-Law Suite shall be as shown on the plan submitted with the Application at the public hearing, dated September 37, 2017, submitted February 01, 2018.
6. The Applicant shall receive a Certificate of Occupancy from the Building Department before occupying the Accessory In-Law Suite.
7. There will be one water meter for the house and Accessory In-Law Suite unless the Applicant receives permission from the Board to install a second meter.
8. There shall be no lodgers in either the original dwelling unit or the Accessory In-Law Suite.
9. The parking and driveway for the house and in-law suite shall remain as-is. If the Applicant wishes to change the driveway, the proposed change will have to be reviewed and approved by the Board.
10. The Applicant will work with the Fire Department and E911 to determine if the Accessory In-Law Suite requires its own address.
11. The life safety devices (smoke and CO detectors) in the main house and Accessory In-Law Suite will be brought into compliance with the current fire code.
12. Plans with Smoke and CO detectors will be submitted to the Walpole Fire Department for review and approval, with a follow up Fire Department inspection for the performance and locations of the detectors.
13. There shall be no change to the exterior of the dwelling.
14. There shall be no additional relief granted.

#### **REASONS FOR DECISION:**

It is the finding of the Board that the Applicant was able to meet the requirements of Section 5-B.2. to allow the requested Accessory In-Law Suite at the subject property. The Board finds that the in-law suite is in character with and follows the intent of the Zoning District in which it is located. Accordingly, the Board has determined that the Special Permit requested is warranted. Specifically, the Board made the following findings pursuant to Section 2.2.B.(1) of the Zoning Bylaw:

**(a) does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested special permit;**

As approved by the Board, including the conditions to this approval, the proposed project complies with the criteria or standards of Section 5-B.2 of the Zoning Bylaw.

**(b) shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;**

The change in use to an In-Law Suite from a child care facility will result in a lesser intensity of vehicle trips to and from the property and is in keeping with the residential character of the immediate neighborhood. Therefore, the Board finds that this criteria is satisfied.

**(c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;**

The change in use to an In-Law Suite from a child care facility will not result in a lesser intensity of use in terms of employees, customers and visitors to the property. The increase in the number of residents is de minimis and in keeping with the residential character of the neighborhood. Therefore, the Board finds that this criteria is satisfied.

**(d) shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The proposed change in use will not result in any change in the existing footprint or exterior dimensions of the principal building and, therefore, the Board finds that this criteria is satisfied.

**(e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;**

The residential use, including the In-Law Suit, is consistent with the uses in the immediate neighborhood and does not present and increase in danger over that posed by residential uses generally. Therefore, the Board finds that this criteria is satisfied.

**(f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;**

The residential use, including the In-Law Suit, is consistent with the uses in the immediate neighborhood and does not present and increase in noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard that will adversely affect the immediate neighborhood. Therefore, the Board finds that this criteria is satisfied.

**(g) shall not adversely affect the character of the immediate neighborhood; and**

The proposed change in use will not adversely affect the character of the immediate neighborhood. There will be no exterior alterations of the structure, and the change in use will not alter the appearance of the building as a single-family residential structure. Moreover, the change in use is more compliant with the Bylaw. For these reasons, the Board finds that this criteria is satisfied.

**(h) shall not be incompatible with the purpose of the Zoning Bylaw or the purpose of the zoning district in which the premises is located.**

The Board finds that the purpose of the Zoning Bylaw in part states, "to encourage housing for persons of all income levels..." "to encourage the most appropriate use of the land". The proposed in-law suite in the existing house will allow the use of the home to support the extended family and convert the space for residential use, which is consistent with the purpose of the Bylaw. As such, this use, conditioned appropriately, is entirely compatible with the purpose of the Zoning Bylaw and this condition is satisfied.

Additionally, the necessary Findings and Determinations noted in Section 5-B.2. B. & C. of the Zoning Bylaw have been satisfied and addressed through this Decision and the conditions.

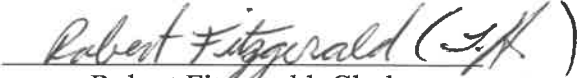
\*\*\*\*\*

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."

Massachusetts General Laws c. 40A, §11 provides in pertinent part as follows: "A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."

**APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.**

WALPOLE ZONING BOARD OF APPEALS

  
Robert Fitzgerald, Clerk

RF/am

cc:	Town Clerk	Engineering	Planning Board	Applicant
	Board of Selectmen	Building Inspector	Conservation Commission	Abutters

This decision was made on March 7, 2018 and filed with the Town Clerk on